IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE BILAL NAZKI

And
THE HON'BLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 4959 of 2003

Between:

K.Rama Rao S/o Late K.Lakshminarayana
O/o Court of Principal Junior Civil Judge, Srikalulam,
Srikalulam District.

... PETITIONER

AND

1 The District Judge,
Srikalulam.
2 The Registrar (Admn)., High Court of Andhra Pradesh
Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the order dt: 2.11.2000 in PR.No.86/96-A, Dt: 20.11.1996 of the 1st respondent and order Roc.No.327/2000-CII/1, dt: 21.2.2002, of the 2nd respondent as illegal, irregular, arbitrary, unjustified, unreasonable and unsustainable and set aside the same holding that the petitioner is not guilty of the charges.

Counsel for the Petitioner: Mr.P.Veera Reddy

Counsel for the Respondents: Mr.C.V.Nagarjuna Reddy, Standing Counsel for A.P. High Court.

The Court made the following:

ORDER: (per the Hon'ble Dr.Justice G. Yethirajulu)

1. This writ petition seeking a Mandamus is filed by the Junior Assistant working in the Unit of the first respondent to declare the orders of the first respondent dated 2-11-2000 in PR. No.86/96-A dated 20-11-1996 and the second respondent dated 21-2-2002 in RoC.No.327/2000-CII/1 as illegal and arbitrary and to set aside the same by holding that he is not guilty of the charges.

2. While the petitioner was working as a Junior Assistant at Sompeta, on 23-10-1996 the first respondent received a complaint from the Bar Association, Sompeta making certain corruption allegations against the petitioner and two others. The first respondent being not satisfied with the written statements submitted by the petitioner and two others, framed the following charges:

Firstly:

That all of you viz., (1) Sri P. Narana Rao, Clerk, (2)Sri K. Rama Rao, Clerk and (3) Sri K.V.Ramanamurthy, Steno-typist are hereby charged for misconduct and unbecoming as all of you have been misusing your position in the office and all of you have been collecting huge amounts soon after the judgments are delivered by the Subordinate Judge, Sompeta.

Secondly:

That all of you viz., (1) Sri P. Narayana Rao, (2) Sri K. Rama Rao, Clerks and (3) Sri K.V.Ramanamurthy, Steno-typist are hereby charged for misconduct and misrepresentation as all of you have been collecting huge amounts claiming to have influenced the Subordinate Judge, Sompeta, which is unbecoming on your part.

The first respondent ordered a regular departmental enquiry to enquire into the allegations levelled against the petitioner as delinquent No.2 and two others. The enquiry officer after conducting a detailed enquiry submitted a report to the first respondent holding that the petitioner and the other two delinquents are guilty of the charges. The first respondent disagreed with the finding of the enquiry officer that the delinquents 1 and 2 received gratification by

representing that they would help the parties in securing favourable judgments, but found that that they have committed a minor misconduct than what was charged, and after following the procedure prescribed under the A.P. Civil Services (Control, Classification & Appeal) Rules, 1991 imposed the punishment of stoppage of three annual increments with cumulative effect against the petitioner by exonerating the other two delinquents from the charges. The petitioner being aggrieved by the order of the first respondent dated 2-11-2000 preferred an appeal in RoC.No.327/C.II-1 before the second respondent. The second respondent through the order dated 21-2-2002 dismissed the appeal by confirming the order of the first respondent in all respects. Against the said order, the petitioner has preferred this writ petition seeking the reliefs mentioned above.

3. The petitioner herein is delinquent No.2 in the said enquiry. The disciplinary authority examined eight witnesses, who are practicing Advocates of Sompeta Bar Association, Srikakulam District. P.W.8 is the President of the Sompeta Bar who gave Ex.P.1-complaint against the petitioner and two others. In the order dated 2-11-2000 the first respondent observed that the evidence of P.W.1 is too vague and he has not averred any specific instance. P.W.1 had no personal knowledge and his evidence was on the basis of the information from his clients. The evidence of P.W.2 is not direct evidence, but based on rumours. The evidence of P.W.3 about the first delinquent collecting money on the ground that he had to meet the expenses of the officer is not covered by Ex.P.1—complaint and the contents of the charges. The evidence of P.W.3 regarding the collection of money by delinquents 1 and 2 is also vague as he does not say when it was collected, and what amount was paid by which party. The client of P.W.3 who paid the amount was not examined.

4. P.W.4 stated that the overall reputation of delinquents 1 and 2 was not good and they had been dealing with the clients before and after pronouncement of the judgments. He further stated that he had no personal knowledge and his evidence was based on the information furnished by his clients. P.W.5 deposed that delinquent No.2 used to

come to his office and maintain contacts with his clients stating that he would talk to the Judge to do favour to them, but he cautioned him not to indulge in such activities, but the second delinquent used to call his clients and talk to them. The evidence of P.W.5 is only about the general reputation of delinquents 1 and 2 and he had not given any specific instance in which they contacted the parties or collected money from them. P.Ws.6 to 8 have not stated anything adverse to the delinquents. P.W.8 deposed that the delinquents neither approached him nor collected anything from him. As President of the Bar, he obliged his Senior Advocates and signed in Ex.P.1. The first respondent after examining the evidence of the above witnesses observed as follows:

> I have carefully considered the whole evidence and the report of the enquiry officer. The charge of receiving gratification is a serious charge, which if proved, would be punishable with a punishment of removal or dismissal from service, which is mandatory under C.C.A. Rules. For the proof of such a grave charge, the evidence must be direct and clinching against any public servant.

5. The first respondent while dealing with the charges against delinquents 1 and 2 observed as follows:

> The parties from whom the delinquents 1 and 2 collected amounts were not examined. In the absence of such details, it is very difficult to check the testimony of P.W.3. Merely because he was the counsel for one of the parties in A.S.No.40/92, his evidence cannot be believed as his evidence suffers from the infirmity of furnishing the details of the alleged misconduct of delinquents 1 and 2. The evidence of P.W.3 regarding the receiving of gratification by delinquents 1 and 2 cannot be accepted because it also suffers from the above infirmities. The testimony of P.W.4, as could be seen from his evidence, is based on the reputation. He has no personal knowledge about the receipt of any gratification by delinquents 1 and 2. So also the testimony of P.W.5 is too vague. This witness does not say that he is a witness for receiving gratification by delinquents 1 and 2. As already pointed out, P.Ws.6 to 8 did not depose anything against delinquents 1 and 2. Therefore, the evidence on record is not sufficient to come to the conclusion that delinquents 1 and 2 received gratification from the parties by promising them to secure judgments in their favour.

6. The first respondent while making the above observations that there is no sufficient evidence to prove the charge of corruption against

the petitioner and delinquent No.1, also made the following observations:

> The evidence of the witnesses examined, especially PWs.1 to 3 and 5, discloses that delinquents 1 and 2 were contacting the parties and speaking with them, presumably in respect of the matters which were pending in the Court. Therefore, their conduct amounts to misconduct, which is unbecoming of a government servant. So, in my view, the delinquents 1 and 2 only committed breach of sub-clauses (2) and (3) of Rule 3 of A.P. Civil Services (Conduct) Rules, 1964, by behaving in a manner, which will place their official position under any kind of embarrassment. Thus, I do not agree with the finding of the enquiry officer that the delinquents 1 and 2 received gratification by representing that they would help the parties in securing favourable judgments. Thus, a minor misconduct than what was charged is proved against delinquents 1 and 2.
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7. The learned counsel for the petitioner submitted that in all two charges have been framed against the petitioner and two others. No separate charges have been framed against each delinquent. When delinquent No.3 was found not guilty on the ground that the evidence placed against him is not sufficient to prove the charges and that the first delinquent retired from service during the pendency of the proceedings, the first respondent ought to have found the petitioner also not guilty of the charges, but peculiarly found him guilty by drawing a presumption that contacting parties to the cases and speaking to them would amount to misconduct, therefore, he requested to set aside the orders of the respondents.

8. We have carefully gone through the order of the first respondent. The tenor of his order indicated that the charges are not proved against the delinquents, including the petitioner, but the first respondent with a view to impose some punishment to the petitioner presumed that the petitioner contacting the parties and speaking to them is in respect of the matters pending before the Court, therefore, his conduct amounts to misconduct. The disciplinary authority has not examined any of the parties who alleged to have paid money to the petitioner. The members of the Sompeta Bar who were examined as witnesses also did not furnish the details regarding the case numbers, the party from whom the money was received, the quantum of money paid, the stake involved in such

proceedings etc. This is not a case of insufficiency of evidence, but a case of no evidence. The first respondent having concluded that the charges of corruption were not proved against the petitioner, finding him guilty for a minor misconduct of talking to the parties by drawing a presumption that the said talk was in respect of the matters pending before the Court is not warranted and the order of the first respondent cannot sustain.

9. In the result, the writ petition is allowed. The orders of the respondents dated 2-11-2000 and 21-2-2002 are accordingly set aside.

(BILAL NAZKI, J)

(Dr.G. YETHIRAJULU, J)

12th April 2005.

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Judge,
Srikalulam.
2 The Registrar (Admn)., High Court of Andhra Pradesh,
Hyderabad.

3 Mr.P. Veera Reddy, Advocate (OPUC)

4 Mr.C.V. Nagarjuna Reddy, Advocate (OPUC)

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